I:Wilson E-5 (1934-1938)1951 FN17 Ngonde FN17
Nyakyusa

barricaded his doorway with thorns. On his return he found them, and he moved to Mwalioje's country (the adjoining chiefdom).'

Often an accusation of witchcraft is made without resort to divination at all: the behaviour of the accused (as in the cases quoted on pp. 110–13) or the word of 'the defender', is taken as evidence. But if there is doubt as to the identity of the witch, the patient or his family may consult a diviner (*mwaguzi*),[1] putting before him the names of persons they suspect. Whatever the grounds of accusation, however, it was normally confirmed by the *mwavi* ordeal, if the accused did not admit guilt. The chief might order a suspect to go to the ordeal, or a man or woman accused by his neighbours would appeal to the ordeal, when denying the charge. In such a case the accuser and accused first went to the chief to report and get official witnesses, then, accompanied by these witnesses and other friends, they went to a doctor who had a store of a certain medicine, *mwavi*, and there, at his homestead, they drank the *mwavi* together. Those who failed to vomit were judged guilty. The procedure was described by a number of witnesses (*vide* Documents, pp. 241–4). The accuser and the accused, each accompanied by supporters, go to the doctor, who warns them not to drink if what they have said is false. The doctor sprinkles powder into tepid water and gives the accuser and the accused the infusion to drink. He addresses the *mwavi*, and the supporters address each their own friend. Then, when one vomits his (or her) supporters applaud smiling,[2] and they go home, the man who vomited paying the doctor. Mwandosi described how after one of the two had vomited the other would sit tense and miserable, quite still. He would be left alone awhile, but later the doctor would try to make him bring up the poison: 'Should a man die?' they said. Only rarely, it seems, did anyone die of drinking *mwavi*.

If the accuser failed to vomit he was judged guilty of witchcraft himself; if neither vomited both were judged guilty; if both vomited the accuser was fined, paying two or more cows to the accused in compensation for slander. If he had no cows he might give a girl in marriage.

[1] For the methods of divination see Godfrey Wilson 'An African Morality', *Africa*, Vol. IX (1936), p. 80.

[2] A high-pitched ululation expressing pleasure and triumph.

I: Wilson E-5 (1924-1928) 1951 FN:7 Ngonde FN1
Nyakyusa

754 Sometimes the individuals concerned did not actually take the
687 ordeal themselves, but each was represented by one of his or her
693 children, as when Mwaimumo's mother was accused of bewitching
the village cows, and one of her younger sons drank the emetic
representing her (cf. Document, p. 141). Very often the ordeal
was used to discover which *group* was responsible for the trouble,
whether it was the father's people or the mother's, or perhaps
the village, and a child was chosen to represent each group and
given the poison. Mwaimumo himself had drunk emetic as a
child, representing his father's people (cf. Document, p. 144).
And a negro explained that each family chose a member who
vomited readily—his family was always represented by a certain
daughter who vomited emetic immediately.

The ordeal is only administered nowadays in the greatest
secrecy, and probably very rarely, for informants who had no
hesitation in discussing with us witchcraft accusations and trials
of supposed witches, though these were well known to be illegal,
denied that the ordeal was administered. The most recent
example we traced occurred in 1932.

763 So far we have only dealt with cases in which witchcraft is
767 suspected as the cause of illness among men, or of a decrease in
754 the milk supply. The matter is more serious if someone has
actually died. If there is any doubt as to the cause of death, an
autopsy is performed, and a diagnosis made from the condition
of the stomach and intestines. "Wounds" or scars in the stomach
are taken as evidence of attacks by witches, and a black oily
substance in the bowel, or red streaked with black and white,
is a mark of sorcery; if the bowel is swollen, or if the excreta
burst out of the incision, it is proof that the deceased was himself
a witch, and was probably killed in a quarrel with fellow witches.
Death due to a relative having been bound with ropes (cf. Docu-
ment, p. 149), or a disease of the bowels (*ibilanya*) attributed to
natural causes, is also thought to be apparent at an autopsy. Some
maintain too, that the source of witchcraft can be discovered from
the examination, wounds on the right side of the stomach indica-
ting that the witch is a member of the father's family, or of the ago-
village; wounds on the left indicating that he is a member of the
mother's family (cf. Document p. 148).

At the autopsy the crowd is kept at a distance and usually only
one or two senior relatives or neighbours, the headman of the

3:Wilson E-5 (1934-1938)1951 FN17 Ngonde FN17
Nyakyusa

6. A BOUNDARY DISPUTE

Heard by the Lupata Court (president, Mwaipopo), 18/3/35.

Man A brought case against man B for assault.

Plaintiff and defendant gave their accounts, and also Mwangomo, chief of the country concerned. 423

A and B had quarrelled over the boundary of their adjoining home-steads, which are in different villages of the same chiefdom. There was an old quarrel about the boundary of the village. Mwangomo stated: 'The week before this quarrel I went with my brothers and the young village headmen (leaving behind the old village headmen because I thought they would quarrel) to settle the dispute. We walked over the boundary and said to the people concerned: "It is here."

'A and his two friends (not in court) were not satisfied with my demarcation and grumbled openly saying: "Who is Mwangomo to take from us the place where our fathers lived, and from which they ate the bananas, and give it to our neighbours? We will take it and not care for Mwangomo" . . . or again: "We do not believe that Mwangomo really decided like this, we shall act as if the line was as before." So when I heard that they were talking like this I asked all the people to watch for any man who might do anything against the decision, and I told one man in particular to watch.'

A and B gave evidence, telling much the same story.

A went to cut the banana leaves (*i.e.* prune) on the old boundary, with a bill-hook (*ilonge*), and B came and told him to stop. They quarrelled, each claiming that the land had been his father's, and that his father had sown the bananas on it. Then B caught hold of the bill-hook, and in the struggle A was cut. A now brings a case for assault against B.

Mwangomo: 'B is in the right, and what makes it worse is that since his father died A has never been in the country. He has lived in MaNgonde (the Lake-shore plain); he has only been back a few days in my country and he brings war into it and spoils it.' Mwangomo spoke angrily, and asked that A should be imprisoned.

The Court: 'We follow what you, the chief, say; if people resist you and speak against you it is very bad, but we disagree about imprisoning him, he has only just returned to the country and it is not a good custom to imprison a man who has only just come to a country. Bring his two friends who have lived long in your country.' 695 683

[p. 191]

1:Wilson E-5 (1934-1938) 1951 FN17 Ngonde FN17
Nyakyusa

695 683 Mwakisisya (another chief sitting in court): 'What about the other man you drove away without bringing him into court? Mwangomo has aggravated the quarrel, he should have called all the men from both villages together and judged the case there.'

The Court, to A: 'Where have you been staying since the fight? Where have you put all your things?'

A: 'In Mwangike's country.'

Court: 'You mean that Mwangomo had driven you out?'

A: 'Yes.'

The Court: 'Then if you have left the country why do you bring this case, troubling us?'

Mwangomo then decided to drive A and his two friends out of the country and said nothing more about punishing A. So the case ended.

I:Wilson E-5(1934-1938)1951 F3617 Ngondo F361
Nyakyusa

25. THE ORDEAL (*UMWAFI*)

Mwaisumo (1938).

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"I was once given *umwafi*. It was long ago but I remember it very well. It was at the funeral of my mother's younger brother *my umwipaw umwandi*; he died suddenly, and when he was dead some people of the family said that the disease was from my father's side (*i.e.* from my father's younger brother, *tata umwandi*, my own father was dead at this time); and others said, no, it was from the side of the deceased's new wife—this was his third wife, recently married—he had run away with her from her husband. Those concerned were the deceased's sisters (and their husbands), brothers, wives, and fellow villagers. They said: "Let us drink *umwafi*." So they took two children, I and another, a girl—she was a daughter of the dead man and represented his own house; if she did not vomit then the disease came from within the house (*i.e.* from one of the wives); I, in the same way, represented my father's house.

"The doctor took some banana leaves and prepared medicine, putting some into each leaf; after a little while they called us and told us to stand apart, a bit away from the house. First the doctor gave the *umwafi* to the girl from her leaf, and then to me from mine. The leaves are kept separate and there are several for each person. All the family drew closer and sat around us. The doctor addressed each of us in turn. I do not remember the words exactly, but it was something like this: "If it was you that has brought sickness, let us see. We are sure it was you that brought the disease." Then we both vomited, she a little before me. If one does not vomit it may be very serious; the poison stays in you and you may die. Then they said: "Well, we do not know where the disease came from." Then they gave us water to wash in and some meat to eat—food is specially put aside for those that drink *umwafi*. This was the end.

"Afterwards it was said that it was the man who was the woman's first husband who had poisoned my mother's brother. We were being tested for sorcery, not witchcraft, as the autopsy had shown that it was a case of sorcery. Having heard this, we did not spread the news; we kept quiet, waited, and watched. And then after a week the dead man's son, my cousin (*ostasi*), was dead; and that woman ran away. She was frightened. Then we knew it was her former husband who had killed both by sorcery.[1] The family sought the doctor to get

[1] In another text (quoted on p. 256) Mwaisumo explained that the injured husband had used 'the horn', i.e. vengeance magic. Being of the family which suffered Mwaisumo calls it 'sorcery'.

1:Wilson E-5 (1934-1938)1951 FN17 Ngonde FN17
Nyakyusa

the medicine for the prevention of the disease, and then it was finished. The wife was taken back by the first husband, so the disease could not kill us any more.

'When she went back to him he could not come to us again. (True, he had no reason to do so.) Nothing happened to him. It is not our custom to accuse such people to the chief; we do not exactly know if it is the man, and still we have taken his wife. We were all concerned in this because of my mother. It happened four years before my brother died; there were four years between my uncle's death and his. I was in Tukuyu during the influenza after the war—in 1918—and then I went to Ilolya the next year, 1919, and my uncle died.

'The procedure is similar in an accusation of witchcraft.'

Mwalisambo (1936).

'*Umwafi* is always used when someone denies practising witchcraft or theft, or denies that he is a liar. When they[1] have "caught" their fellow in the village and say that it is he who is throttling their cows so that they do not get milk, and the accused man denies it, then they take him to drink *umwafi*. When they have come to the doctor's place they tell him their tale. Two men support the accused and two the accuser. They do not eat when they are going to drink *umwafi*. The doctor first says to the accused: "If you are really guilty of throttling the cows, don't trouble the *umwafi*, but confess." And he replies: "Had I been seen as a witch I would not have come here." And both his supporters say: "Our friend is falsely accused; he has never practised witchcraft."

'The doctor questions the accuser in the same way, saying: "Did you really see your fellow as a witch?" and he and his supporters reply that they saw him.

'So then the doctor gives them *umwafi* to drink. He sprinkles a little powder in tepid water; or sometimes (so they say) he sprinkles the *umwafi* on two freshly cut stumps of banana stem, one representing one side, and one the other. Then the stump in which the "new growth" (? say: *shafyupa*) first appears is the one that has "vomited". The "growth" appears the same day that they cut it. The doctor addresses the *umwafi* (*shapangilaga*) and the others present assist, the supporters of each man addressing him. Then one vomits and those on his side trill, but he who has not vomited is very sad. Then they go home and he who has vomited pays the doctor.

'There is very little drinking of *umwafi* nowadays, but much divination (*shulagwa*).

[1] i.e. 'the defenders'. Mwalisambo explained, 'A witchcraft accusation always begins with "the defenders" seeing the witches in dreams.'

I:WilsonE-9(1924-1938)1951FN17 Ngumbo FN17
Nyakyusa

"There are some in our country who were caught for witchcraft, for "eating" people and throttling corn. The name of one of them was Semali, but now he is dead, another is Mwainumu. They denied the accusation very strongly, they were brought before the chief (my father) for their case to be judged, and when he had given judgement they said they wished to go to *ensenji*. So they went to the *ensenji*, and when they had drunk it Semali vomited and Mwainumu was conquered. Nothing happened to him—he was not driven out, they just told him to stop doing such things—but continually, even now, he is accused of witchcraft whenever anything happens. He's not gone to *ensenji* again.

"This happened before I went to school, when I was still herding cows, about ages or eight. I *did not see* the trial (before the chief) with my own eyes, but I was there when the *ensenji* was administered.

"On another occasion a woman was "caught" for witchcraft when her child died. When they do an autopsy they sometimes find wounds on the right side or on the left. The right side is the side of the man, the left that of the woman. This time they found them on the side of the woman. The woman (i.e. the mother) denied that it was she who had "eaten" the child so they went to *ensenji* and the woman was "conquered" (i.e. proved to be lying). It was not she, in her own person, but a member of her lineage who had "eaten" the child. After the *ensenji* had "spoken" they went to a diviner to discover exactly who the individual was.

"I heard about this from others, but Mwainumbile, the father of the child who died, is a man of our country—I know him."

I:Wilson E-9[1934-.938]1931 F917 Uganda F917
Nyakyusa

54. PROCEDURE IN WITCHCRAFT CASES (WOODEN)

Nsese (village headman).

Question: 'How do you manage about witchcraft cases nowadays?'

'We judge them openly but we do not have them written in the court book. When "a defender" has seen his fellow throttle someone, he tells us, and we judge that witch. It is "the defenders" (*abamunga*) who see the witches. Perhaps "the defender" comes out of his house by night and calls out: "I see so and so throttling so and so! Listen to-morrow."

'Yes, that happens nowadays.

'When someone tells us in this way we agree; the witch is driven out. Yes, even though he denies it, we say: "You are a witch. You are a thief. Even though you do not admit it, get out of the country." But formerly they went to the ordeal.'

Question: 'Now you just accept the word of the defender?'

'Yes, formerly if a man denied guilt when he was accused he went to the ordeal, and the *umuyafi* "caught" the witch. Now since the Europeans have forbidden the use of *umuyafi* we accept the word of "the defenders". Look, they (the defenders) are witches. Yes, in dreams.'

Question: 'What about the man who accused the wife of Mwaku-bolia?'

'He denied it. He said: "I did not see her", so on that account we said: "Since you have abandoned her you must pay thirty shillings." But had he really seen her and told us properly we would have overcome the woman in argument and divorced her from her husband, but he denied it, saying: "I did not see her", and we all said: "The woman is not a witch; who has seen her?"

'If a woman is divorced for witchcraft there is no fine, the husband gets back his cows, that is all.'

Question: 'And the friend of Mwambupata?'

'He was really a witch. They said: "Yes, Mwambupata, we will convict you of witchcraft yourself if you are friendly with him."

'And if a man is fined because he has accused his fellow of witchcraft without seeing him, really, we do not write that in the book either.

'No, *umuyafi* is not used; the Europeans and the chiefs and the village headmen have strictly forbidden it.'

1:Wilson E-5(1934-1938)1951 FN17 Ngonde FN17
Nyakyusa

754 From the Records of the First Class Subordinate Court of Rungwe

691 *Criminal case*, 11/1935. *Heard* 5/3/35 *before P. M. Huggins.*
L. Rungwitz, prosecuting.
Rex v. Mwa, son of Hamani.

Charge: 'By actions and statement representing himself to have power of witchcraft and supplying instruments of witchcraft (green leaves) to one Mwakalinbo, son of Mwakalinbo.'

Charge read and explained.

Accused pleaded not guilty.

Mwakalinbo, headman[1] *of Kapya, a pagan (complainant).*

754 695 'About two months ago a man called Bakowike came to me at Ikapo, stating that he had been sent by the accused to warn me that there was a conspiracy to bewitch me, on the part of one Mwakagiri and Mwakatumbula, because I was supposed to have taken some of the former's country. I told Bakowike to tell the accused to come and tell his own tale. The accused came that same day at about sundown. We entered the house and then he called me outside to talk to me. Prior to doing this he told me that Mwakagiri had given him four cows to arrange my death as the former stated that I was in possession of his land. He said that if I gave him a cow he would take no action. I did so. He also gave me some ground-up green leaves which he instructed me to mix with water and drink. He alleged that this potion would render me immune from witchcraft.

'The accused went off with the cow. Kikomile (K), Kyungulula (V), and Mahandi (Z) and three of my wives were present during the above conversation.

'About a week later Mwakagiri came to visit me—I had sent for him. I did not welcome him—I told him I had heard that he was after my life. He asked me who had said this and I indicated the accused. He then told me that the accused had made the same statements about me to him. I then came and reported to the D.O. I threw away the medicine that the accused had given me. Relations have recently been strained between Mwakagiri and myself.'

In reply to question by accused: 'Yes, I sent for you but only because you sent Bakowike to me first to warn me.'

First witness, a brother of the complainant, confirmed his story, having been present when both Bakowike and the accused came to the complainant. He added these points:

[1] Probably a minor chief (*umulyanki*), not a village headman (*idjikomo*). The report of the case was in English.

1: Wilson E-5 (1934-1938)1951 FN17 Ngonde FN17
Nyakyusa

'Mwakagiri wished to kill Mwakalobo over a land dispute and subchief Mwakaumbula also desired to do so, as he did not obey orders. Mwakalobo said he would not drink the powder (given by the accused) except in the presence of all his sons. . . . Bakowike was known to me, he lives at Isagula in Mwakaumbula's country, and Mwakalobo is married to two of his sisters.'

Second witness, Mwangambo, a classificatory brother of Mwakalobo, entirely confirmed Mwakalobo and the first witness. He also was present when both Bakowike and the accused came. Also, he said:

'I was present subsequently when Mwakalobo sent for Mwakagiri. Both of them stated in conversation that the accused had informed them that each had designs on the life of the other.'

In reply to a question by the accused: 'You did not spend the night with us, nor did you drink beer; there was none. We didn't drink the medicines.'

In reply to a question by the court: 'Yes, Bakowike came back again with the accused.'

A henchman ('captive') of Mwakalobo confirmed the above stories.

Bakowike confirmed the other stories. He said: 'The accused and Mwakyangile with whom the accused lived (Mwakyangile is also a doctor) came and told me that Mwakagiri had come and informed the accused that he wanted to kill Mwakalobo, and had given him four cows for the purpose. He asked me if I was a relative of Mwakalobo's. I told him that I was; then he advised me to go and warn him, which I did that day. Mwakalobo then told me to fetch Mana (the accused). I called him and Mwakyangile the same evening.'

In reply to a question by the accused: 'I did not come to your house. I did not give you a goat in exchange for medicine for my wife.'

In reply to a question by the court: 'I had never heard of Mana before. He lives across a stream about one and a quarter miles away.'

In reply to a question by the accused: 'We did not sleep at Mwakalobo's.'

Note by the court: Impression that this witness had previously met the accused, probably buying medicine from him as stated by the accused, but is afraid of acknowledging the association.

Mwakagiri: 'It is true that Mwakalobo and I have had a dispute about land. I have never met Mwakalobo on any occasion on which we have accused each other of invoking witchcraft against each other, but on various occasions Mwangambo (the second witness) was sent by Mwakalobo to inquire why I was bewitching him. I told Mwangambo I was doing nothing of the sort. This was about a month ago. No one else was present. I did not learn how Mwakalobo came to suspect me.

I:Wilson E-5(1936-1938)1951 F311? Ngondo F311?
Nyakyusa

I have often met the accused; he came and took a wife from my country. The accused is a doctor. I do not know why Mwakalobo should say that I met him. It is a lie.'

Mwakalobo was called. He said: 'Mwangombo (the second witness) is a nephew of Mwakagiri. I sent him to call Mwakagiri. He came back the same day with Mwakagiri and Nyomilela.'

Mwangombo when recalled confirmed this, adding: 'I live under Mwakalobo.'

Nyomilela: 'I know of no meeting of Mwakalobo and Mwakagiri. They were disputing over land. I heard from Mwakagiri that his nephew Mwangombo had told him that Mwakalobo accused him of exercising witchcraft against him. I am no relative of either party. I never went with Mwakagiri to meet Mwakalobo.'

Note of the court: I am of the impression that Mwakagiri and Nyomilela are hiding something. Their evidence is not given in a straightforward manner.

Accused (Musa): 'I have never received four cows from Mwakagiri. True, I went to Mwakalobo's house. He called me to prescribe for his impotency. He paid me with a cow. I was surprised at this as it is not customary to receive payment till a cure is effected.'

In reply to a question by the court: 'No one approached me with a view to exercising malignant witchcraft. I do not know why I should have been dragged into this. Perhaps Mwakalobo heard I had gone to Mwakagiri's country. I only went there to see my father-in-law. I gave Mwakalobo medicine to cure his impotency. I warned him that it would be no use for his trouble, but he insisted on having it. Yes, he even insisted on giving me the cow as a pledge of friendship. I did not know why he was so positive and wanted to be friendly with me. This is the first gift of that nature that I have received. I have been three months in Isangulo. I am on my way to my home at Mwaya. I stopped at Isangulo because I was suffering from a boil. All my relatives live in Sangu country.'

In reply to a question by the prosecution: 'I was myself surprised that as a resident of three months' standing I should have been suspected by Mwakalobo of witchcraft.'

In reply to a question by the court: 'Mwakyangile was present with me at Mwakalobo's. I went to call him.'

Note by the court: There is no question that this evidence is given glibly, and carries no conviction. The demeanour of the accused is that of a man seeking for a way out of a trying situation.

Mwakyangile told a different story from Musa. 'Mwakalobo wanted treatment for his children, who were suffering from *ikitanya* (a disease). He wanted nothing for himself.'

1:Wilson E-5(1934-1938)1951 F'N17 Ngumbo F'N17
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In reply to a question of the court: 'He did not complain of imprisonment.'

In reply to a question by the accused: 'We did not discuss bewitching anybody.'

Order

'There is in my opinion no doubt that the accused is guilty of practising witchcraft for reward, and is causing fear and annoyance. Section 5 of the Witchcraft Ordinance virtually prohibits any effective and rapid steps being taken to combat witchcraft. Section 5 (i) necessitates the delay of trial by High Court, and the offence disclosed is not covered by it, whereas Section 5 (a) necessitates obtaining from His Excellency the Governor both sanction to prosecute and confirmation of any sentence imposed. Under the circumstances, and in view of the delay that has already taken place, permission is granted by the police to withdraw their request for sanction to prosecute under Section 5 (a).

'By virtue of the powers conferred on me by Section 8 cap. 20, Mtwa, son of Hamani, is ordered to reside at Mweya and to report once a month at the District Office, pending such decision as the Provincial Commissioner shall make, following a request that he should exercise the powers conferred on him by Section 8 (3) to order Mtwa, son of Hamani, to reside in his own domicile, Usangu.'

The Provincial Commissioner agreed to the request and Mtwa is now in Sangu country.

3: Mackenzie M-S (ca. 1923) 1925
F7817 Ngoande F7817

671 law-breaking, and the balance was restored when the law was vindicated. The idea that stable equilibrium means stagnation is alien to the Kunde mind. To disturb the balance in order to advance to new conditions is a European, not a Bantu idea, and wherever the European stimulus has been removed, the wheels of custom drag heavily again.

692 A native court is not, to a white man, an imposing
•695 spectacle; though no doubt it is fearsome enough to some trembling rascal, who has little reason to hope that his misdeeds will escape their due reward. The court meets under the village tree, or, if the weather is bad, on the verandah of the chief or judge. There the chief sits with his headmen if the case is an important one, and there are usually a few old men present also, in whose memories are stored up records of previous cases which may have some bearing on the one in hand. The persons concerned are among the audience, which sits facing the court; and when called upon, they rise in turn, and conduct the case from where they stand. The native is a keen disputer. I have known a clever man fight his case with amazing skill and perseverance; even after it was clear that the evidence against him was complete, he would go on adducing fact after fact with a dialectical skill that would not disgrace a European lawyer at cross-examination. If the judge is a man with a [32] sense of humour, he often announces his decision by relating some well-known story, the point of which is taken by all, as, with expressions of approval or otherwise, they rise and go. Execution of sentence

D. Mackenzie M-S (ca. 1925) 1925
FN17 Ngonde FN17

694 does not delay, but is carried out immediately. The
695 loser may, however, appeal to another judge for a re-
hearing of the case. Compensation in some form,
usually cattle, or hoes, or, in a few cases, a daughter,
is the sentence.

696 *Theft.*—The extraordinary boldness and skill of
697 the Nyakyusa thieves are widely known. Outside their
own country their reputation is perhaps greater than
they deserve, great though that is. At one place
guards are doubled when it is known that Nyakyusa
carriers have arrived. No European house has
escaped their attentions, to the greater or smaller loss
of the owner. They break through brick walls, enter
by door or window, conduct their operations by day
or night, with equal indifference and success; and the
speed with which recognizable goods are disposed of,
adds to the mystery of their methods.

A white man was recently robbed while reading in bed with dogs beside him, the thieves quietly lifting and carrying off a heavy trunk, which they believed to contain a large amount of cash, before the owner knew that they were in the room. Another had the whole of his kit taken while he himself was in the next room; a medical man had his hand-bag taken from his bedroom at about five in the afternoon; in yet another case the sum of two hundred shillings was quietly carried off from a table while three Europeans were sitting in the next room at breakfast. Sheets have been taken off beds, and the owners knew nothing of their loss until bed-time revealed the fact. Rifles and accoutrements have been removed from

3: Mackenzie M-S (ca. 1925) 1925
F7417 Ngonde F7417

day; next, those who destroy men and cattle, and everything else, by means of their hidden powers; and finally, the creators of lions, leopards, crocodiles, and eagles, who are the worst enemies of society, but who are held in such fear that they are seldom molested. The official dreamers, already frequently referred to, have one *inta*, serpent, in the stomach, but they are not called wizards; they are witch destroyers, or at least discoverers, for they have the power of seeing in dreams what these evil men are doing, and in dreams going out to fight them. And if, in the dream, the dreamer kills the snake with which he fights, the owner will be found dead in the morning.

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Perhaps one of the commonest charges of witchcraft is made in connection with the milk supply. As a rule, in December, the chief sends out word that he expects the milk supply to be good for the year; if it turns out to be less than was expected, and if there has been no drought, it is obvious that there has been undue interference, and that on a great scale, with the cattle. The whole of the people of the affected district are summoned to the chief's village, and put to the test; each person bringing all the cattle he possesses. There are two tests: by the ear, and by the stomach, that is to say by poison. The people sit in a great circle, and one after another comes up to the doctor, who bores the ear with a sharp instrument; if the ear is easily bored, the person is innocent; if the skin is tough, and resists, he is guilty, and is ordered to sit on one side, where he is joined by all others who are found out in the same way.

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3: Mackenzie M-S (ca. 1925) 1925
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But each person who is declared innocent goes at once, without further parley, to take charge of the cattle which he brought to the meeting. From the guilty persons everything is taken away: cattle, hoes, cooking pots, food stocks; and men are sent at once to burn down their houses. The live stock is the property of the chief, and it is mostly killed on the spot, and eaten, or dried, before the assembly departs; while the wretched criminals are sent out into the world, homeless and in poverty. They are not always expelled from the district, but they usually prefer to go to another chief.

The poison test has the same results for the guilty; but every individual is not necessarily tested. From each village one man is taken, and he drinks for the whole of that community. If he vomits, not only he, but all the village which he represents is innocent. If he does not, it does not follow that he is himself the guilty person, but only that the criminal (or criminals) will be found in his village. They are taken individually, and the poison administered, the innocent vomiting, and the guilty failing to do so. The decoction is never strong enough among the Konde to kill, and therefore other punishments must be found. Not infrequently a dog or a cock is made to take the poison, the results being credited or debited to the person for whom it stands.

The "smelling out" of witches is not generally practised; but there is a woman at Tukuyu, a stout young woman with a hearty laugh, who has the power of picking out the innocent when a general accusation

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of witchcraft is made. The people are assembled by order of the chief, and the woman walks slowly round the circle, gazing into the eyes of each person, and eliminating the innocent one by one, using no other test than the look in the individual's eyes. Those who remain are guilty.

Prosperity in another arouses all the evil passions of witches and wizards. But prosperity in itself was, until lately, evidence that the prosperous person was himself a wizard. There is a woman living not far from me who was accused before the British magistrate of pretending to exercise witchcraft, and to obtain cattle and other goods by threatening violence. She was dismissed on technical grounds, but ordered not to return to her own district. In conversation with her after the trial she told me that it was only the presence of the white man that saved her from being burned alive as a witch; the evidence against her being the rapid increase of her live stock. But the increase, she assured me, was "the gift of God."

Death by burning was the ancient penalty when that was inflicted publicly; but when the witches or wizards themselves undertook to kill a fellow-sorcerer in jealousy, they did it in another way. Leaving their bodies behind them, they go to the house of the victim, enter by the roof, disturbing nothing; and finally enter the stomach of the sleeping person. Thence they wander about to lungs, heart, or liver, and wound him with their "secret spears." Next day the man is ill, and the day following he dies. If the *post mortem* reveals ulcers on heart, lungs, or liver,

5 Wilson E-5 (1934-1938)1938 FN17 Ngoreko FN17
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166 witchcraft, which consists in the ability to translate evil impulses into
754 effective though immaterial actions and thus to cause sickness and death;
but it is never clearly known who all these people are. And so the
coincidence of an obstinate illness with any quarrel or social tension of
any kind between neighbours gives rise to a suspicion that witchcraft is at
work. If the diviners support this theory then almost the only thing to
be done nowadays is to move and get out of range; for witchcraft cannot
act at a distance. In the old days an alternative course of action was
[265] open to the sick man, he might identify the witch with the aid of the
mwafi ordeal and get him expelled from the chiefdom. Expulsions for
witchcraft still occur to-day, but only rarely, for the mwafi ordeal, the most
certain detector of witches, is no longer legal. There is, however, nothing
to prevent a man who thinks himself bewitched from moving. Now
this fact of constant movement is of the utmost importance in determining
the Nyakyusa system of land tenure since it tends to prevent the develop-
ment of any exclusive attachment to particular pieces of ground. And
the cause of this constant movement is mainly, though not entirely, the
fear of witchcraft.

For ordinary commoners only their immediate neighbours are
believed to be dangerous and sick men therefore sometimes move only
from one village to another of the same chiefdom; but very many more
right outside to another chiefdom altogether, preferring to make assurance
doubly sure and to put a long distance between themselves and their
spiritual persecutors. And in the case of certain men of a high social
status, for whom a wider circle is dangerous, it is held to be quite essential
to leave the chiefdom.

166 I have no detailed statistics on moving but I estimate that, among
the pagan Nyakyusa, at least 80%, of the married men have, at some time
or other, moved from the chiefdoms in which they first cultivated gardens
of their own. They may stay away for a few weeks only, they may stay
away for thirty years or they may never return at all. If, however, the
chiefdom from which they first moved is the one which they regard as
home then they usually do return to it in the end. A man's home chief-
dom is pre-eminently the one in which his father lives, or, if dead, spent
most of his life and is now buried. And this is normally the one in which
he himself also was born and brought up and in which he first took up
land.

166 When a man moves from his home chiefdom, his village neighbours
621 there, in the majority of cases, follow him within two months and ceremo-
nially invite him back with a show of force by seizing his belongings and
carrying them off home to his old village. They may really like and
respect him and if, as is usually the case, he has moved because of sick-

6-Wilson E-6 (1936-1938)1939 FN17 Ngonde FN17

children and relations would be apprehended and brought to the Kyungu by the messengers. The Kyungu, or rather the rulers of Ngonde, would select the best-looking girls and let the others go. And then it was all over, any kindreds who had fled could return in safety to their homes. For in the old days when a man did wrong there was no legal argument and no trial. All his kindreds were terrified and the man fled, but the common, not having the strength to flee far, would be apprehended. The messengers would apprehend not only his full siblings and their children but his half siblings and their children too." Not only girls but boys also were sometimes kept as slaves. One of our informants made it clear, however, that it was always possible for a rich family to redeem their kins, both boys and girls, by giving one or two beasts in exchange for each.

Our enquiries about the statement that "in the old days there was no legal argument and no trial" brought a clear distinction between ordinary cases and cases of treason either against the Kyungu or against the great chiefs: "In cases between two ordinary men, whether commoners or junior chiefs, there was indeed real legal procedure: a chief would take the case, one would pay damages to the other and smooth relationships would be re-established between them. But what we meant was that when a man wronged the Kyungu or one of the great chiefs then there was no sort of legal argument at all!"

It is not relevant here to enter into any full account of the institution of slavery in Ngonde, but it must be pointed out that it was a very different thing from that introduced by the Arabs in the late 19th century. Few of these early slaves appear to have been sold outside Ngonde, and the Longwezi traders carried away white ivory alone. Nor was there any impassable barrier between slave and free. All our informants maintain that slaves were treated rather as younger sons and daughters than as chattels, with the one exception that they could be sold to another man. A woman slave married by a free man herself at once became free, and the children of two married slaves were free also.

Another form of treason against the Kyungu, we were told, was to insult him by whispered criticism. Thus present Kyungu said that in the old days a Kyungu used occasionally to be insulted by one of his sons, the chiefs, and that then, "if the Kyungu was a fierce man," he would send the other chiefs against him and have all his cows and wealth taken and his houses burnt. The way in which the Kyungu might be insulted was this: after the election of a new Kyungu perhaps one of the other chiefs would begin to ask secretly why on earth they had chosen such an unsuitable man for the position, and suggest that he had none of the qualities of a chief; then if the Kyungu heard of

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with, and they were dealt with summarily. Each rattle of Ngonde, of course, decided such cases as the members of his own kin might bring him; but for Ngonde as a whole Mbande was not a court of law; it was a shrine, an epidemic, a fount of authority and a curse.

Each great chief, however, besides taking ordinary cases among the people of his own chiefdom, also held an appeal court of a kind to which cases could be brought from all the chiefdoms of his house; for the great chiefs alone among the sons of the Kyungu had power to administer the poison-ordeal (*mwafi*); some of the territorial nobles had it also, but not the local chiefs. If any case proved difficult of decision, if either party was not satisfied that justice was being done, then appeal might be made to the *mwafi*. And this brought a great chief something of the prestige of a high-court judge, for he could summon defendants from any chiefdom of his own house. And sometimes, as a guarantee of impartiality in a particularly difficult case, he might send the litigants to a neighbouring great chief, saying: "Let my brother settle this; otherwise they will say that I showed favour to one or the other and that I influenced the *mwafi*!" Thus Mwakaungulu is said to have sent cases occasionally to Kalonga.

Now the poison-ordeal was not only appealed to in witchcraft-cases, though it is with them that it is particularly associated, for without it they could never be decided at all; cases of any difficulty could be taken to it, whatever their nature. Nevertheless the procedure of the poison-ordeal was in itself a purely religious ceremonial; the legal argument was not reopened. An appeal to the *mwafi* was an appeal beyond secular justice altogether, to something that knew men's innermost thoughts and their most secret actions. It was believed that the *mwafi* could be influenced, but only in religious ways. The impartiality of the great chief was important, for he owned it and his attitude might be magically conveyed into it; and it was also possible for its decision to be deflected by magical preparations; but forensic rhetoric left it wholly unmoved.

And no cases were ever taken on appeal to the great chiefs to be reopened in a mundane way. Nor among any group of brother chiefs were cases ever taken on appeal from a junior to a senior. In the elaborate political hierarchy which we have described the element of secular judicial procedure was conspicuously slight. Indeed the men of Ngonde had scarcely any greater judicial facilities than the Nyakyusa, with their independent chiefdoms.

A great many cases, as we have pointed out, were decided by the common people among themselves, others were taken to the great-commoners of the separate villages of each chiefdom, others to the